

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants	S. Levin, et al.	Examiner	Kovacs, Arpad F.
Serial No.	09/531,735	Group Art No.	3671
Filed	3/21/2000	Confirmation No.	7129
For	LAWNMOWER CUTTING DECK AND RELEASABLE BLADE		

December 1, 2008

APPEAL BRIEF

In accordance with 37 C.F.R. § 41.37, and fully responsive to the Final Office Action of April 1, 2008, Appellants (formerly the above listed Applicants) hereby file this Appeal Brief in support of their Appeal in the above-identified matter. A Notice Of Appeal, with appropriate fee of \$ 255 (small entity) as required by §§ 41.31, 41.20(b)(1), was filed on August 1, 2008. The \$ 270 (small entity) fee for this Appeal Brief, as required by 37 C.F.R. § 41.20(b)(2), is filed herewith.

This Appeal Brief is timely filed within four (4) months of the mailing of the Notice Of Appeal (filed on August 1, 2008) and payment of \$ 245 (small entity) for a two-month extension of time.

I. Real Party In Interest

The real party in interest for this appeal is F Robotics Acquisitions Ltd., a corporation established under the laws of Israel and having a principal place of business in Israel. Evidence of this real party in interest is by two assignments, which were recorded on July 31, 2000, and January 3, 2003, and may be found at reel/frame 011015/0501 and 013631/0490, respectively.

II. Related Appeals And Interferences

No other appeals or interferences are known to the Appellants, the Appellant's legal representative, or assignee which will directly affect or be

directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status Of The Claims

All pending claims, 9-22 and 33-35, stand finally rejected as per the Final Office Action of April 1, 2008, and are being appealed. Claims 9-22 and 33-35 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,670,413 to Weber (Weber '413).

Additionally, the Appellants note that, despite erroneous indication in the Final Office Action that only claims 12-22 and 33-35 are pending in the present application, reference to claims 9-11 is explicitly made in the Final Office Action at pages 3 and 4, and these claims are also indicated as pending in the Advisory Action of July 14, 2008.

IV. Status Of Amendments

There are no pending amendments to the present application. The claims from the Applicant's Response to the Final Office Action of July 1, 2008 were entered into the record in the Advisory Action of July 14, 2008. These claims 9-22 and 33-35, as entered into the Record in the Advisory Action of July 14, 2008, appear below in the Claims Appendix.

V. Summary Of The Claimed Subject Matter

A. Introduction

The present invention is directed to a removable blade 34 that is releasable from a stub 62, rotated by a motor 32, by force generated by a user, absent any tools or excessive strength. Hence, the blade of the invention is commonly referred to as a "tool(s) free" blade. (Page 4, lines 1-4 and Page 10, lines 25-28). The blade 34 is also configured to join and retain a stub 62, rotated by a motor 32 in manner so as to be balanced upon rotation. (Page 3, lines 6-9, lines 26-28, and Page 10, lines 20-24).

The blade 34 includes a blade body (Page 10, lines 12-17) with cutting portions 34x, angled from a platform 34p, for contacting and cutting grass and other vegetation. (Page 10, lines 15-17). A receiver 64 is attached to the platform 34p. The receiver 64 includes a receiving portion 84, that is a cup-like structure (84 in Fig. 6), for receiving a rotatable member, for example, a stub 62, rotated by a motor 32. (See Figs. 6 and 7 and Page 8, lines 2-9). The motor 32 transfers rotational motion to the stub 62 via a shaft 74. (Page 8, lines 10-11). Flexible members 92 along the receiving portion 84 serve to retain the stub 62 in the receiving portion 84, in a frictional engagement, that allows for safe rotational speeds for the blade 34 suitable for lawn mowing, without the blade 34 disengaging from the stub 62. (Page 10, lines 5-11). The flexible members 92 are spring-like in their behavior, and include first portions 95, 95a and second portions 93, 93a at opposite ends (95, 93, respectively) of the flexible members 92. (Page 4, lines 7-12 and Page 9, lines 15-19).

The first portions 95, 95a are hooked for engaging the stub 62, and holding it in the receiving portion 84. The second portions 93, 93a are such that when force is applied thereto by a user, the first portions 95, 95a spread beyond the stub 62, from their initial position where they engage the stub 62. (Page 9, lines 21-26 and Page 11, lines 17-21). Once the first portions 95, 95a have been spread to clear the stub 62, the user simply pulls the blade 34 away from the stub 62, such that the blade 34 is now separated from the stub 62 and the motor assembly 32. (Page 9, lines 21-15 and Page 11, lines 21-26).

Similarly, attachment of the blade 34 involves aligning the receiving portion 84 with the stub 62 and moving the blade 34 forward, toward the motor assembly 32. As the blade 34 is moved forward, the curved portions 95b of the first portions 95 of the flexible members 92 slide over and ultimately "snap" onto the stub 62, due to their inward biasing. This inward biasing also causes the first portions 95, 95a, 95b to remain over the stub 62, such that the stub 62 is held in the receiving portion 84 in a frictional engagement. (Page 11, lines 1-14).

When the stub 62 is held in the receiving portion 84, the frictional engagement is augmented by protrusions 80 on the inner surface 82 of the receiving portion 84, that engage corresponding grooves 78 on the outer surface 76 of the stub 62. This arrangement allows for a firm engagement with minimal 'play' between the blade 34 and stub 62 during rotation of the blade 34 during a grass or vegetation cutting operation. (Page 8, lines 10-25). Additionally, the positioning of the receiver 64, receiving portion 84, and flexible members 92 is such that attachment to, and engagement with, the motor 32 allows for the blade 34 to be balanced upon rotation. (Page 3, lines 26-28).

B. Independent Claims 9, 12, 16, 19 and 33

Each of Appellants' independent claims is set forth below, with appropriate reference numbers and reference to corresponding parts of Appellants' Specification.

Independent Claim 9

9. A lawnmower blade assembly 22 comprising:
- a shaft 74 configured to be in rotatable communication with a motor 32;
 - a stub 62 in communication with said shaft 74;
 - a blade 34; and,
 - a receiver 64 coupled to said blade, said receiver including a receiving portion 84 and at least a plurality of flexible members 92 configured for moving between inward and outward positions for engaging and retaining said stub 62 in said receiving portion 84 in a releasable engagement (Page 9, lines 15-19 and 21-25), said flexible members 92 including first ends 95 and second ends 93, said first ends 93 including engaging portions (95, 95a) for moving between said inward and outward positions (Page 9, lines 15-19 and 21-25), and said first ends 95 in communication with said second ends 93, said first ends 95 disposed opposite said second

ends 93 on said flexible members 92 (Page 9, lines 15-16 and Figs. 5-7), and said second ends 93 configured such that force on each of said second ends 93 moves said engaging portions 95, 95a to said outward positions (Page 9, lines 21-25), allowing for at least the disengagement of said blade 34 from said stub 62 (Page 9, lines 15-19 and lines 21-25).

Independent Claim 12

12. A lawnmower blade 34 comprising:
- a blade body (Page 10, lines 12-17), said blade body (Page 10, lines 12-17) including oppositely disposed cutting portions 34x and a platform 34p intermediate said oppositely disposed cutting portions 34x; and,
 - a receiver 64, said receiver 64 coupled to said platform 34p in a substantially coaxial alignment (Page 3, lines 26-28), said receiver including flexible members 92 for moving between inward and outward positions for retaining at least a portion of a rotatable member 62 in communication with a motor 32 in a releasable engagement at least partially within said receiver 64 (Page 4, lines 6-11), said flexible members 92 including first portions 95, 95a configured for moving between said inward and outward positions (Page 9, lines 15-19 and 21-25), and second portions 93, 93a, in communication with said first portions 95, 95a, said first portions 95, 95a and said second portions 93, 93a disposed at opposite ends 95, 93 of said flexible members 92, said second portions 93, 93a configured such that pressure on said second portions 93, 93a moves said first portions 95, 95a to said outward positions (Page 9, lines 21-16), and, said receiver 64 is configured for receiving and retaining said at least a portion of said rotatable member 62 in a substantially coaxial alignment therewith (Page 3, lines 26-28),

such that said blade body is balanced upon rotation (Page 3, lines 27-28).

Independent Claim 16

16. A lawnmower blade 34 comprising:
a blade body (Page 10, lines 12-17), said blade body (Page 10, lines 12-17) including oppositely disposed cutting portions 34x and a platform 34p intermediate said oppositely disposed cutting portions 34x; and,
a receiver 64, said receiver 64 coupled to said platform 34p in a substantially coaxial alignment (Page 3, lines 26-28), said receiver 64 including a receiving portion 84 for receiving at least a portion of a rotatable member 62 in a substantially coaxial alignment therewith (Page 3, lines 26-28), such that said blade body (Page 10, lines 12-17) is balanced upon rotation (Page 3, lines 27-28), and flexible members 92 for moving between inward and outward positions (Page 4, lines 5-8), for retaining said at least a portion of said rotatable member 62 in a releasable engagement at least partially within said receiving portion 84 (Page 4, line 9), said flexible members 92 including first portions 95, 95a configured for moving between said inward and outward positions (Page 9, lines 15-19 and 21-25), and second portions 93, 93a, said second portions 93, 93a in communication with said first portions 95, 95a, said first portions 95, 95a and said second portions 93, 93a disposed at opposite ends 95, 93 of said flexible members 92, and, for each of said flexible members 92, said second portion 93, 93a is configured such that pressure on said second portion 93, 93a moves said first portion 95, 95a to said outward position (Page 9, lines 21-26).

Independent Claim 19

19. A lawnmower blade 34 comprising:
a blade body (Page 10, lines 12-17), said blade body (Page 10, lines 12-17) including oppositely disposed cutting portions 34x and a platform 34p intermediate said oppositely disposed cutting portions 34x; and,
a receiver 64, said receiver 64 coupled to said platform 34p in a substantially coaxial alignment (Page 3, lines 26-28), said receiver 64 including at least two flexible members 92, each of said flexible members 92 configured for moving between inward and outward positions (Page 4, lines 5-8) for retaining at least a portion of a rotatable member 62 in communication with a motor 32 in a releasable engagement at least partially within said receiver 64 (Page 4, line 9), each of said flexible members 92 including oppositely disposed first 95 and second 93 ends, said first ends 95 including first portions 95, 95a configured for moving between said inward and outward positions (Page 9, lines 15-19 and 21-25), and said second ends 93 including second portions 93, 93a, said second portions 93, 93a separate from and in communication with said first portions 95, 95a, said second portions 93, 93a configured such that pressure on said second portions 93, 93a moves said first portions 95, 95a to said outward positions (Page 9, lines 21-26);
and,
said receiver 64 is configured for receiving and retaining said at least a portion of said rotatable member 62 in a substantially coaxial alignment therewith, such that said blade body (Page 10, lines 12-17) is balanced upon rotation (Page 3, lines 24-28).

Independent Claim 33

33. A lawnmower blade 34 comprising:

- a blade body (Page 10, lines 12-17), said blade body (Page 10, lines 12-17) including oppositely disposed cutting portions 34x and a platform 34p intermediate said oppositely disposed cutting portions 34x; and,
- a receiver 64, said receiver coupled to said platform 34p in a substantially coaxial alignment (Page 3, lines 26-28), said receiver 64 comprising:
 - a receiving portion 84 for receiving at least a portion of a rotatable member 62, said receiving portion including an inner surface 82 including a plurality of protrusions 80 spaced apart to define a series of ridges and grooves for receiving said at least a portion of said rotatable member 62 having a correspondingly configured outer surface 76, (Page 8, lines 11-12 and lines 17-23) and, said receiving portion 84 is configured for receiving and retaining said at least a portion of a said rotatable member 62 in a substantially coaxial alignment therewith (Page 3, lines 26-28), such that said blade body is balanced upon rotation (Page 3, lines 27-28); and,
- a plurality of flexible members 92 for moving between inward and outward positions (Page 4, lines 7-9), for retaining said at least a portion of said rotatable member 62 in a releasable engagement at least partially within said receiving portion 84 (Page 4, lines 6-11), said flexible members 92 including first portions 95, 95a configured for moving between said inward and outward positions (Page 4, lines 5-8), and second portions 93, 93a said second portions 93, 93a in communication with said first portions 95, 95a, said first portions 95, 95a and said second portions 93, 93a disposed at opposite ends 95, 93 of said flexible members 92, and, for each of said

flexible members 92, said second portion 93, 93a is configured such that pressure on said second portion 93, 93a moves said first portion 95, 95a to said outward position (Page 9, lines 21-26).

VI. Grounds Of Rejection To Be Reviewed On Appeal

Whether claims 9–22 and 33–35 are anticipated under 35 U.S.C. § 102(b) over U.S. Patent No. 3,670,413 to Weber (Weber '413).

VII. Arguments

A. Summary

Appellants maintain that all claims pending in this appeal, i.e., claims 9–22 and 33–35, are not anticipated under 35 U.S.C. § 102(b) in view of U.S. Patent No. 3,670,413 to Weber (Weber '413). The claims are not anticipated in view of the reference because the structure disclosed in Weber '413 and the structure of Appellants' claimed invention are significantly and patentably distinct.

B. U.S. Patent No. 3,670,413 to Weber does not anticipate claims 9–22 and 33–35 under 35 U.S.C. § 102(b).

- 1. Independent Claims 9, 12, 16, 19, and 33 are not anticipated by Weber '413 since the structure of the Weber '413 device and the structure of Appellants' claimed invention are significantly and patentably distinct.*

For the purpose of the present discussion, viewed in the orientation shown in Figs. 4 and 6 in Weber '413, each of the spring clips 13 of the device as disclosed in Weber '413 can be considered as having a 'free' upper end ('first end'), that is, an end which is free to bend when a force is applied thereto, and a 'static' lower end ('second end'), i.e., an end which is permanently affixed to a central "web" (indicated by reference number 22 in Fig. 6, but also present in the embodiment shown in Fig. 4).

As can be seen from both Figs. 4 and 6, **force applied to the 'second end' of clip 13, regardless of the direction in which it is applied, will not move the 'first end' of clip 13 to an outward position.** The 'first end' will move to an outward position in only two cases – (1) if an outward force is applied directly to the 'first end' itself, or, possibly, (2) if a force sufficient to deform clip 13 is applied proximate to the **middle** of the clip 13. It should be clear that if force is applied to the 'second end' of clip 13, that the 'first end' of the clip will not move, since the 'second end' is statically attached to web 22, and will not move at all, unless the clip is broken away from the hub, in which case the clip will cease to perform any sort of retaining function. This is not simply an issue of semantics – the curved *middle* of clip 13 is clearly not the same part of the clip as the fixed *end* of the clip.

In patentable distinction, pressure (or force) applied to the **second end portion 93** (*cf.*, the 'second end' of Weber '413 clip 13) of Appellants' **flexible member 92** (*cf.* the Weber '413 clip itself) will move the **first portion 95, 95a** (*cf.* the 'first end' of the Weber '413 clip 13) to the **outward position** (*in contrast to* the 'first end' of Weber '413 clip 13), as claimed in each of Appellants' independent claims, for example in claim 16:

...said flexible members including first portions configured for moving between said inward and outward positions, and second portions, said second portions in communication with said first portions, said first portions and said second portions disposed at opposite ends of said flexible members, and, for each of said flexible members, said second portion is configured such that pressure on said second portion moves said first portion to said outward position.

The spring clips 13 as disclosed in Weber '413 each have a second end where each spring clip 13 is fixedly joined to the central web 22. The clips 13 disclosed in Weber '413 thus have one free end and one static end, in contrast to Appellants' structure recited in claims 9, 12, 16, 19, and 33, wherein each of the flexible members 92 have *two* free ends 95, 93. For this reason alone, the

recited structure of claims 9, 12, 16, 19, and 33 is fundamentally different from the structure disclosed by Weber '413.

Therefore, the structure of the Weber '413 device and the structure of Appellants' claimed invention are significantly and patentably distinct, since Appellants' flexible members 92 are significantly structurally different from the clips 13 of the Weber '413 device. In view of this structural distinction, Appellants' independent claims 9, 12, 16, 19, and 33 cannot be anticipated by Weber '413 under 35 U.S.C. § 102(b).

2. *Dependent Claims 10, 11, 13–15, 17, 18, 20–22, 34, and 35 are also not anticipated by Weber '413 for the same reasons as the respective independent claims.*

Appellants believe that all of the pending dependent claims are also allowable over Weber '413 for the same reasons as the respective independent claims, since each of these claims depends from a claim which Appellants believe has been shown to be allowable as not anticipated by Weber '413 under 35 U.S.C. § 102(b).

VIII. Claims Appendix

Appellants enclose a copy of the claims involved in this appeal as an appendix hereto.

IX. Evidence Appendix

No evidence of previous record is entered or relied upon in this appeal.

X. Related Proceedings Appendix

To Appellants' knowledge, there are no related decisions rendered by a court or the Board for submission with this appeal.

XI. Conclusion

For at least the reasons set forth above, Appellants believe that none of the pending claims 9-22 and 33-35 are anticipated 35 U.S.C. § 102(b) by U.S.

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Patent No. 3,670,413 to Weber. Accordingly, all pending claims are allowable over all art of record, in view of the above discussion.

Other than the costs for the Appeal Brief, it is believed that no additional fees are due in connection with this matter. However, if any additional fee is deemed necessary in connection with this Appeal Brief, the Commissioner is hereby authorized to charge such fee to Deposit Account No. 12-0600.

Respectfully submitted,

LATHROP & GAGE LC

Date: December 1, 2008

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CLAIMS APPENDIX

1-8. Cancelled

9. A lawnmower blade assembly comprising:
a shaft configured to be in rotatable communication with a motor;
a stub in communication with said shaft;
a blade; and,
a receiver coupled to said blade, said receiver including a receiving portion and at least a plurality of flexible members configured for moving between inward and outward positions for engaging and retaining said stub in said receiving portion in a releasable engagement, said flexible members including first ends and second ends, said first ends including engaging portions for moving between said inward and outward positions, and said first ends in communication with said second ends, said first ends disposed opposite said second ends on said flexible members, and said second ends configured such that force on each of said second ends moves said engaging portions to said outward positions, allowing for at least the disengagement of said blade from said stub.

10. The blade assembly of claim 9, wherein said shaft, stub, blade and receiver are configured to be in coaxial alignment, such that said blade is balanced upon rotation.

11. The blade assembly of claim 10, wherein said stub includes an outer surface and said receiving portion includes an inner surface, said outer and said inner surfaces correspondingly configured with respect to each other for allowing a sufficient but minimal amount of rotational play for said blade.

12. A lawnmower blade comprising:

a blade body, said blade body including oppositely disposed cutting portions and a platform intermediate said oppositely disposed cutting portions; and,

a receiver, said receiver coupled to said platform in a substantially coaxial alignment, said receiver including flexible members for moving between inward and outward positions for retaining at least a portion of a rotatable member in communication with a motor in a releasable engagement at least partially within said receiver, said flexible members including first portions configured for moving between said inward and outward positions, and second portions, in communication with said first portions, said first portions and said second portions disposed at opposite ends of said flexible members, said second portions configured such that pressure on said second portions moves said first portions to said outward positions, and, said receiver is configured for receiving and retaining said at least a portion of said rotatable member in a substantially coaxial alignment therewith, such that said blade body is balanced upon rotation.

13. The lawnmower blade of claim 12, wherein said first portions of said flexible members include bodies configured for spring-like behavior.

14. The lawnmower blade of claim 12, wherein said receiver includes a receiving portion for receiving said at least a portion of said rotatable member.

15. The lawnmower blade of claim 14, wherein said receiving portion includes an inner surface that is configured to receive said at least a portion of said rotatable member in a manner to allow a sufficient but minimal amount of rotational play for said lawnmower blade.

16. A lawnmower blade comprising:

- a blade body, said blade body including oppositely disposed cutting portions and a platform intermediate said oppositely disposed cutting portions; and,
- a receiver, said receiver coupled to said platform in a substantially coaxial alignment, said receiver including a receiving portion for receiving at least a portion of a rotatable member in a substantially coaxial alignment therewith, such that said blade body is balanced upon rotation, and flexible members for moving between inward and outward positions, for retaining said at least a portion of said rotatable member in a releasable engagement at least partially within said receiving portion, said flexible members including first portions configured for moving between said inward and outward positions, and second portions, said second portions in communication with said first portions, said first portions and said second portions disposed at opposite ends of said flexible members, and, for each of said flexible members, said second portion is configured such that pressure on said second portion moves said first portion to said outward position.

17. The lawnmower blade of claim 16, wherein said first portions of said flexible members include bodies configured for spring-like behavior.

18. The lawnmower blade of claim 17, wherein said receiving portion includes an inner surface that is configured to receive said at least a portion of said rotatable member in a manner to allow a sufficient but minimal amount of rotational play for said lawnmower blade.

19. A lawnmower blade comprising:
- a blade body, said blade body including oppositely disposed cutting portions and a platform intermediate said oppositely disposed cutting portions;

a receiver, said receiver coupled to said platform in a substantially coaxial alignment, said receiver including at least two flexible members, each of said flexible members configured for moving between inward and outward positions for retaining at least a portion of a rotatable member in communication with a motor in a releasable engagement at least partially within said receiver, each of said flexible members including oppositely disposed first and second ends, said first ends including first portions configured for moving between said inward and outward positions, and said second ends including second portions, said second portions separate from and in communication with said first portions, said second portions configured such that pressure on said second portions moves said first portions to said outward positions; and,

said receiver is configured for receiving and retaining said at least a portion of said rotatable member in a substantially coaxial alignment therewith, such that said blade body is balanced upon rotation.

20. The lawnmower blade of claim 19, wherein said first portions of said flexible members include bodies configured for spring-like behavior.

21. The lawnmower blade of claim 19, wherein said receiver includes a receiving portion for receiving said at least a portion of said rotatable member.

22. The lawnmower blade of claim 21, wherein said receiving portion includes an inner surface that is configured to receive said at least a portion of said rotatable member in a manner to allow a sufficient but minimal amount of rotational play for said lawnmower blade.

23. – 32. (Cancelled).

33. A lawnmower blade comprising:

- a blade body, said blade body including oppositely disposed cutting portions and a platform intermediate said oppositely disposed cutting portions; and,
- a receiver, said receiver coupled to said platform in a substantially coaxial alignment, said receiver comprising:
 - a receiving portion for receiving at least a portion of a rotatable member, said receiving portion including an inner surface including a plurality of protrusions spaced apart to define a series of ridges and grooves for receiving said at least a portion of said rotatable member having a correspondingly configured outer surface, and, said receiving portion is configured for receiving and retaining said at least a portion of said rotatable member in a substantially coaxial alignment therewith, such that said blade body is balanced upon rotation; and,
 - a plurality of flexible members for moving between inward and outward positions, for retaining said at least a portion of said rotatable member in a releasable engagement at least partially within said receiving portion, said flexible members including first portions configured for moving between said inward and outward positions, and second portions, said second portions in communication with said first portions, said first portions and said second portions disposed at opposite ends of said flexible members, and, for each of said flexible members, said second portion is configured such that pressure on said second portion moves said first portion to said outward position.

34. The lawnmower blade of claim 33, wherein said first portions of said flexible members include bodies configured for spring-like behavior.

35. The lawnmower blade of claim 34, wherein said plurality of protrusions of the receiving portion are configured to receive said rotatable member along a correspondingly configured outer surface in a manner to such that retaining forces of said flexible members on said at least a portion of said rotatable member are greater than rotational forces on said lawnmower blade.

EVIDENCE APPENDIX

No new evidence is submitted into the record which is relied upon by Appellants.

RELATED PROCEEDINGS APPENDIX

To Appellants' knowledge, there are no related decisions rendered by a court or the Board for submission with this appeal.